IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.295 OF 1992

The State of Maharashtra ...Appellant.
V/s
Dharma Balu Ghag
Age 35 years,
R/o Tadgaon, Tal. Murud,
District - Raigad ...Respondent.

Mr. A.S. Shitole, APP for the State.

None for the respondent.

CORAM: V.M.KANADE,J.
DATE: 14th January, 2005

ORAL JUDGMENT:

1. State has filed this appeal against the judgment and order passed by the IVth Assistant Sessions Judge, Raigad in Sessions Case No.62 of 1991. By the said judgment and order dated 21/3/1992, the Trial Court was pleased to acquit the accused of the offence punishable under section 306 and 498-A of the Indian Penal Code.

2. Prosecution case is that the deceased was the wife of the accused. It is alleged that the accused used to assault deceased Gauri and, therefore, the deceased had complained to her mother Shantabai about ill-treatment by the accused. Thereafter, meeting was arranged between the accused and the complainant and, in the said meeting, accused promised not to beat the deceased in future. On 20/11/1990, she was informed

that her daughter had committed suicide. A complaint was lodged on 21/11/1990 and an offence was registered against the accused under section 306, 498-A of the Indian Penal Code.

3. Prosecution examined four witnesses i.e. P.W. 1 - Shantabai, the mother of the deceased, P.W.2 - Vanita Shirke, the neighbour of the accused, P.W. 3 - Narayan Kamble, the Panch witness who has attended the Panch meeting and P.W. 4 - Sub Inspector Chavan who was the Investigating Officer. P.W.1 - Shantabai has stated in her evidence that her daughter had complained that the accused used to beat hear and, therefore, she had called panch meeting which was conducted in the village of the accused. In that meeting, accused promised not to beat the deceased in future and, therefore, elderly persons from the village asked her to keep her daughter at the house of the accused. Thereafter, the daughter of the complainant started residing with the accused. She has further stated that one moth after the meeting, accused again ill-treated her daughter. At that time, deceased was pregnant for the second time and she had come to her maternal house for delivery. However, three days after her delivery, the accused took her to the matrimonial house. She has stated that six months

thereafter her daughter committed suicide. She has further stated that one day prior to the incident, one lady who was the neighbour of the accused informed her that there was a quarrel between the husband and wife one day before the incident. P.W. 2 - Vanita Shirke, the neighbour of the accused, however, in her evidence has stated that she had not seen the quarrel herself but was informed about the quarrel by some other person. From this evidence, it cannot be said that the accused had harassed and treated the deceased with cruelty and that because of the said cruelty, she has committed suicide. The Trial Court, in my view, has correctly appreciated the evidence on record and has acquitted the accused.

4. It is a settled position in law that every type of cruelty or harassment would not attract the provisions of section 498-A. In order to prove the case against the accused, the prosecution has to establish that the cruelty was such that the deceased had committed suicide because of the said harassment. In the present case, there is no evidence on record to indicate that the deceased had committed suicide as a result of the cruelty by her husband. Appeal, therefore, is dismissed.

V.M.KANADE, J.